

III. REMARKS

Claims 1-4, 6-9, 11-13, 15, 16, 18-21, 23, and 24-26 are pending in this application. Claim 25 was previously withdrawn. Claims 5, 10, 14, and 22 were previously cancelled. By this Amendment, claims 1, 8, 9, 11, 24, and 26 have been amended and claim 17 has been cancelled. Reconsideration in view of the above amendment and the following remarks is respectfully requested.

Entry of this Amendment is proper under 37 CFR 1.116(b) because the Amendment: (a) places the application in condition for allowance as discussed below; (b) does not raise any new issues requiring further search and/or consideration; and (c) places the application in better form for appeal. Accordingly, Applicant respectfully requests entry of this Amendment.

Applicant does not acquiesce in the correctness of the rejections and reserves the right to present specific arguments regarding any rejected claims not specifically addressed. Further, Applicant reserves the right to pursue the full scope of the subject matter of the claims in a subsequent patent application that claims priority to the instant application.

Applicant acknowledges and appreciates the Office's withdrawal of its earlier objections to the pending claims.

Applicant appreciates the courtesies extended to Applicant and Applicant's representatives during their telephonic interview of 06 March 2008. The substance of that interview is incorporated herein.

In the Office Action, claims 1, 3, 4, 8, 9, 11-13, 15-17, 19, 21, 23, and 24 are rejected under 35 USC 103(a) as allegedly being unpatentable over US Patent No. 5,975,535 to Gail et al. in view of US Patent No. 6,220,602 to Webster et al.

With respect to claims 1, 9, 19, and 24, the Office alleges that Gail et al. disclose “a free portion (2) adapted to be angled relative to a longitudinal axis and longitudinally angled relative to all radial axes of a component (4) to be sealed against.” Final Office Action at 3. The Office argues that since the “adapted to” language of the rejected claims does not positively bring into the claim the component to be sealed against, the component need not be the one disclosed by Gail et al. The Office then alleges that “the component itself may be angled, wherein the free portion is thus considered angled relative to the longitudinal axis of said angled component.” Final Office Action at 4.

As noted by Applicant’s representative during the 06 March 2008 interview, angling the component to be sealed against using the Gail et al. device would render the device non-functional or require substantial modification of the device; modification that is neither disclosed nor suggested by Gail et al. or any other reference. That is, angling the component within the Gail et al. device would require the individual brushes of the device to be of varying length around the device’s circumference. The Examiner acknowledged this to be so during the interview.

Nevertheless, following the Examiner’s suggestion that the claims would be clearer and possibly allowable if rewritten to exclude reference to the component to be sealed against, Applicant has so amended claims 1, 9, and 24. Specifically, rather than referring to axes of the component to be sealed against, the amended claims refer to a radial axis of a non-rotating member (see, e.g., element 14 in FIG. 1). Applicant

respectfully asserts, therefore, that claims 1, 9, and 24, as well as claims 2-4, 6-8, 11-13, 15, 16, and 18, which depend therefrom, are allowable for each of the reasons above and requests that the rejection be withdrawn.

Applicant notes that claim 19 is directed to a rotary machine and positively recites a rotatable component to be sealed against. Thus, Applicant respectfully asserts that claim 19, as well as claims 20, 21, and 23, which depend therefrom, are allowable for the first reason above and requests that the rejection be withdrawn.

In the Office Action, claims 2, 18, 20, and 26 are rejected under 35 USC 103(a) as allegedly being unpatentable over Gail et al. in view of Webster et al. in further view of US Patent No. 4,813,608 to Holowach et al.

Applicant has asserted above that claims 2, 18, and 20 are allowable. With respect to claim 26, Applicant notes that the claim has been amended to remove reference to the component to be sealed against, as with amended claims 1, 9, and 24. Thus, Applicant respectfully asserts that claim 26 is allowable for each of the reasons above and respectfully requests that the rejection be withdrawn.

In the Office Action, claims 6 and 7 are rejected under 35 USC 103(a) as allegedly being unpatentable over Gail et al. in view of Webster et al. in further view of US Patent No. 5,042,823 to Mackay et al. Applicant has asserted above that claims 6 and 7 are allowable for each of the reasons above and respectfully requests withdrawal of the rejection.

Should the Examiner require anything further from Applicant, the Examiner is invited to contact Applicant's undersigned representative at the number listed below.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Stephen F. Swinton, Jr.", written in a cursive style.

Stephen F. Swinton, Jr.
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Date: 27 March 2008

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